IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 288 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M. DOSHIT

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

S R SHARMA, P.I.

Versus

STATE OF GUJARAT

Appearance:

MR J.B PARDIWALA for
MR KB ANANDJIWALA for Petitioners No. 1-4
MR LR POOJARI APP for Respondent No. 1
MR NL PATEL, Respondent No. 2 - In person

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 18/12/2001

ORAL JUDGEMENT

Heard the learned advocates and the respondent no. 2, who appears in person.

This Revision Application has been preferred by the four accused persons [Police officers] against the judgment and order dated 11th May, 1999 passed by the learned Judicial Magistrate, First Class, Nadiad below Application Exh. 191 in Criminal Case No. 4385 of 1989.

In Criminal Case No. 4385 of 1989, the petitioners herein are the accused of the offence punishable under Sections 323, 327, 342, 211 and 120-B, 323/34, 327/34, 342/34, 211/34, 323/114, 327/114, 342/114, and 211/114 of IPC. The petitioner no.1-accused no. 1 is also accused of offence punishable under Sections 504 & 506 (2) IPC. Under the above referred Application Exh. 191, all the four accused sought discharge on the ground that the previous sanction to prosecute the said accused persons, as envisaged under Section 197 CrPC, was not obtained. The said application has been dismissed under the impugned judgment and order dated 11th May, 1999. Feeling aggrieved, the accused have preferred the present Revision Application.

I have perused the impugned judgment and order passed by the learned Magistrate. I am in agreement with the reasons recorded by the learned Magistrate. The Revision Application is, therefore, dismissed. It is, however, clarified that the petitioners shall be at liberty to raise the contention at a later stage, if after recording further evidence the petitioners are able to establish that the offence alleged was committed by them in discharge of their duty. Subject to the above clarification, rule is discharged. Interim relief is vacated.

[Miss R.M Doshit, J.]

Prakash*